

1 To coordinate the allotment of time and procedures for timekeeping at trial, the Court
2 ORDERS the schedule and procedures set forth below:

3 1. The Court has allotted 45 hours of trial time per side. Each trial day will proceed
4 from 9:30 a.m. to 12:15 p.m. and from 1:15 p.m. to 3:30 p.m.

5 2. One business day shall be reserved for Plaintiff's opening statements, and one
6 business day shall be reserved for Defendants' opening statements, with Defendants to divide their
7 time as they see fit. The Court days for opening statements may run longer than the trial day
8 articulated above. Opening statements shall not count against the time allocations for either side.

9 3. No determination has yet been made regarding the amount of time to be allocated to
10 the parties' closing arguments, but that the time will be divided equally between Plaintiff and
11 Defendants. Closing statements shall not count against the time allocations for either side.

12 4. Opening statements, closing statements, arguments on trial motions, judicial
13 commentary outside of testimony and purely logistical matters addressed at breaks or at the
14 beginning or end of any given trial day shall not be included in the time allocations for either side.

15 5. The following aspects of trial will count against the presenting side's time allocation,
16 with time starting when the Court allows the presenting party to proceed:

17 (a) For Live Witnesses: All questioning of a live witness shall be charged to the
18 questioner except for the witness' initial 30-minute summary. ECF Nos. 1189, 1236. Time an
19 opposing party uses to make objections related to evidentiary matters shall count against the
20 questioner unless the Court determines otherwise. The parties shall both maintain calculations of the
21 time spent by either side.

22 (b) For Designated Testimony by Video: The proffering party shall use deposition
23 designation software to identify "run times" for both the proffering party's designations and the
24 opposing party's designations. The run time for the proffering party's designations (including reply
25 designations) shall count against the proffering party. The run time for the opposing party's
26 designations (including all completeness and counter-designations) shall count against the opposing
27 party. At its election, the opposing party may use its own deposition designation software to check
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1 the proffering party's run times. If the opposing party's estimates differ from the proffering party's
2 estimates by more than five minutes, the opposing party may request a meet and confer.

3 (c) For Designated Testimony Without Video: For testimony by witnesses whose
4 testimony was not videotaped, the parties shall calculate time used to read in the testimony during
5 the trial. The estimated run time for the proffering party's designations (including reply
6 designations) shall count against the proffering party. The estimated run time for the opposing
7 party's designations (including all completeness and counter-designations) shall count against the
8 opposing party.

9 6. At the end of each court day, the parties shall jointly meet to confirm: (a) the time
10 spent by Plaintiff and Defendants that day; (b) the total time spent by Plaintiff and Defendants to
11 date; and (c) the total time that Plaintiff and Defendants have remaining. For daily time estimates, if
12 the parties' calculations are within 15 minutes of each other (*i.e.*, the estimates of Plaintiff's trial
13 time that day are within 15 minutes of each other, and the estimates of Defendants' trial time that
14 day are also within 15 minutes of each other), the parties shall average their respective calculations,
15 and that average shall constitute the official tally for the day. If the parties' calculations are more
16 than 15 minutes apart, they shall meet and confer to reach agreement. If agreement cannot be
17 reached, the parties may seek the Court's guidance.

18 7. Each morning the parties shall jointly file a table that lists: (a) the time spent by each
19 side on each day of trial; (b) the total time spent by each side to date; and (c) the total time that each
20 side has remaining. A template is attached hereto as Exhibit 1 as an example only.

21 IT IS SO ORDERED.

22 DATED: April 11, 2022



23 THE HONORABLE CHARLES R. BREYER
24 UNITED STATES DISTRICT JUDGE

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